IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

MFA.No. 116 of 2003(C)

OPMV.201/1997 of ADDL.MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM
.....

APPELLANT: 3RD RESPONDENT

UNITED INDIA INSURANCE COMPANY LIMITED,
PALAKKAD NOW REPRESENTED BY ITS
ADMINISTRATIVE OFFICER, THIRD PARTY CLAIMS CELL,
M.G.ROAD, KOCHI-16

BY ADV. SRI.MATHEWS JACOB

RESPONDENTS: PETITIONERS
---

1. ASSIA W/O. LATE VEERANKUNJU, CHEERAKUZHI HOUSE, KONOTHUPARAMBU, VYTTILA P.O., PONNURUNI, POONITHURA VILLAGE.

2. RAMLATH D/O. LATE VEERANKUNJU, DO.DO.

3. SOUDHA D/O. LATE VEERANKUNJU, DO.DO.

4. ABDUL KAREEM S/O. LATE VEERANKUNJU, DO.DO.

5. NASER S/O. LATE VEERANKUNJU, DO.DO.

BY ADV. SRI.T.H.ABDUL AZEEZ

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 27.9.07, THE COURT ON 27/09/2007 DELIVERED THE FOLLOWING:

ORDER ON CMP.NO.514 OF 2003 IN MFA.116 OF 2003:

DISMISSED.

27.9.2007 Sd/-
K.HEMA, JUDGE

/TRUE COPY/

PA TO JUDGE

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO.116 OF 20O3

Dated this the 27th day of September, 2007

JUDGMENT

Koshy, J.

A 23 years old vegetable vendor met with a fatal injury in a motor accident. His mother, two sisters and two brothers filed application for compensation contending that the accident occurred due to the negligence of the first respondent driver of the vehicle. The vehicle was owned by the second respondent and insured with the third respondent Insurance Company. The Tribunal awarded compensation of Rs.3,24,500/-. The Insurance Company got permission under Section 170 to file this appeal questioning the quantum of compensation. The deceased was unmarried. It is contended by the learned counsel for the Insurance Company that since the deceased was 23 years old, there is likelihood of marriage and there is no evidence regarding his income or even his occupation. However, the Tribunal has fixed Rs.18,000/- as the early monthly contribution to the family. It has come out in evidence that his father was no more at the time of accident and he was maintaining his family. Of course, he has got another elder brother,

fourth respondent, who was 24 years old. There is no evidence whether the sisters were married at the time of accident. In any event, in the case of death, the multiplier is to be fixed by considering the age of the mother. The mother was aged 55 at the time of filing the application in 1997. The accident occurred in September, 1996. Taking the second schedule as guidance and taking the fact that mother has not completed the age of 55, we take 7 as the multiplier. If that be so, compensation payable will be Rs.18,000 x 11 = Rs.1,98,000/- as dependency compensation as against Rs.3,06,000/- assessed by the Tribunal. Therefore, the total compensation will be reduced so much amount. Hence, total compensation amount payable will be Rs.2,16,500/- with interest from the date of application and proportionate cost. We are not changing the rate of interest. The appeal is allowed modifying the award accordingly. Under the circumstances of the case, the parties to bear their cost in this appeal.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.116 OF 2003

JUDGMENT

27.9.2007